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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2011-976**

11 **JACKIE LYNNE DRUCKER**  
12 **1256 136th Avenue**  
13 **San Leandro, CA 94578**  
**Registered Nurse License No. RN 485835**

**A C C U S A T I O N**

14 Respondent.

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16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
20 Consumer Affairs.

21 2. On or about November 30, 1992, the Board of Registered Nursing issued Registered  
22 Nurse License Number RN 485835 to Jackie Lynne Drucker (Respondent). The Registered  
23 Nurse License was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on January 31, 2012, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

## STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

7. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

1 8. California Code of Regulations, title 16, section 1443, states:

2 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the  
3 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and  
4 exercised by a competent registered nurse as described in Section 1443.5."

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### COST RECOVERY

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8 9. Code section 125.3 provides that the may request the administrative law judge to  
9 direct a licentiate found to have committed a violation or violations of the licensing act to pay a  
10 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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### FIRST CAUSE FOR DISCIPLINE

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(Unprofessional Conduct - Gross Negligence)

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14 10. Respondent is subject to disciplinary action under section 2761(a)(1) and California  
15 Code of regulations Title 16, Section 1442 in that on about December 2008 while on duty as a  
16 registered nurse at a Lucille Packard Hospital in Palo Alto, Respondent committed acts  
17 constituting gross negligence. The circumstances are as follows:

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18 11. On or about December 6-7 night-shift, Respondent was assigned to the NICU unit of  
19 the hospital and to provide care to infant Patient 1. Respondent, while caring for the infant, was  
20 heard to be using profanity. Respondent was also seen to be roughly and abruptly holding and  
21 handling infant Patient 1.

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22 12. Infant Patient 1, while in emotional distress and crying, was being held by  
23 Respondent as Respondent attempted to initiate an IV. Respondent was unable to initially secure  
24 the IV and attempted it several times, using loud profanity while holding infant Patient 1.

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25 13. Respondent did not attempt to calm infant Patient 1 and addressed infant Patient 1  
26 roughly; abruptly pushing a pacifier into infant Patient 1's mouth causing said infant Patient 1 to  
27 jerk.

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20. Infant Patient 1, while in emotional distress and crying, was being held by Respondent as Respondent attempted to initiate an IV. Respondent was unable to initially secure the IV and attempted it several times, using loud profanity while holding infant Patient 1.

21. Respondent did not attempt to calm infant Patient 1 and addressed infant Patient 1 roughly; abruptly pushing a pacifier into infant Patient 1's mouth causing said infant Patient 1 to jerk.

## PRAYER

**WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 485835, issued to Jackie Lynne Drucker

2. Ordering Jackie Lynne Drucker to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

6/13/11

*Louise R. Bailey*  
 LOUISE R. BAILEY, M.ED., RN  
 Executive Officer  
 Board of Registered Nursing  
 Department of Consumer Affairs  
 State of California  
*Complainant*

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